

## **BOARD OF EQUALIZATION RULES FOR TAX APPEALS**

California Code of Regulations  
Title 18. Public Revenues  
Division 2.1. State Board of Equalization – Rules for Tax Appeals  
***Chapter 4: Appeals from Actions of the Franchise Tax Board***

### **ARTICLE 3: BRIEFING SCHEDULES AND PROCEDURES**

#### **5431. GENERAL BRIEFING SCHEDULE.**

(a) Application. The briefing schedule in this section applies to all appeals from actions of the Franchise Tax Board, unless the appeal involves an innocent spouse determination or a jeopardy determination.

#### **(b) Opening Briefs.**

(1) Appellant's Opening Brief. The perfected appeal is the Appellant's Opening Brief.

(2) Respondent's Opening Brief. The Franchise Tax Board may file an Opening Brief not later than 90 days from the date the Chief of Board Proceedings acknowledges receipt of the Appellant's Opening Brief.

#### **(c) Reply Briefs.**

(1) Appellant's Reply Brief. The appellant may file a Reply Brief not later than 30 days from the date the Chief of Board Proceedings acknowledges receipt of the Respondent's Opening Brief. The Appellant's Reply Brief, if filed, may only address points of disagreement with the Respondent's Opening Brief. Except as provided in paragraph (2), the filing of the Appellant's Reply Brief concludes the briefing schedule.

(2) Respondent's Reply Brief. The Franchise Tax Board may file a Reply Brief only upon written permission from the Chief Counsel. The Respondent's Reply Brief, if filed, may only address points of disagreement with the Appellant's Reply Brief.

(A) The Franchise Tax Board has 15 days from the date the Chief of Board Proceedings acknowledges receipt of the Appellant's Reply Brief in which to file a written request to file its Reply Brief.

(B) Upon receipt of the Franchise Tax Board's written request, the Chief Counsel will determine whether additional briefing is necessary. Factors to be considered in determining whether additional briefing is necessary include, but are not limited to:

(i) Whether the Appellant's Reply Brief raised new facts, arguments, or evidence that are essential to the resolution of the appeal;

(ii) Whether the briefing filed to date has provided sufficient information for the Board to resolve the appeal; and

(iii) Whether the facts and issues in the appeal are so complex as to require additional discussion or clarification.

(C) If the Chief Counsel determines that additional briefing is necessary, he or she will grant the Franchise Tax Board's request to file a Reply Brief. The Franchise Tax Board may file its Reply Brief not later than 30 days from the date on which its request is granted.

(D) If the Chief Counsel determines that additional briefing is not necessary, he or she will deny the Franchise Tax Board's request to file a Reply Brief. That denial concludes the briefing schedule.

(3) Appellant's Supplemental Brief. If the Franchise Tax Board files a Reply Brief, the appellant may file a Supplemental Brief not later than 30 days from the date the Chief of Board Proceedings acknowledges receipt of the Respondent's Reply Brief. The Appellant's Supplemental Brief, if filed, may only address points of disagreement with the Respondent's Reply Brief. The filing of the Appellant's Supplemental Brief concludes the briefing schedule.

Note: Authority cited: Government Code section 15606.

Reference: Revenue and Taxation Code sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.